UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

YING Y. LAI, Plaintiff, -against- KUN FUK CHENG a/k/a STEVEN CHENG, THE UNITED STATES OF AMERICA and "JOHN DOE NO. 1" through "JOHN DOE NO. 15", the last fifteen names being fictitious persons or parties unknown to plaintiff, the persons or parties intended being the tenants, occupants, persons or corporations, if any, having or claiming an interest in or lien upon the premises described in the Complaint, Defendant.	Civil Action No. 05-CV-708 (TJM/RFT)

STIPULATION AND ORDER
TERMINATING STAY OF FORECLOSURE PROCEEDINGS

WHEREAS, on November 17, 2004, the defendant United States of America filed an Indictment against defendant Kun Fuk Cheng in criminal case no. 04-CR-544 which included a forefeiture allegation and on November 18, 2004, a Lis Pendens was filed respecting the real property commonly known as 1885 Central Avenue, Albany, New York ("1885 Central Avenue"); and

WHEREAS, on or about May 2, 2005, this action was commenced in the New York State Supreme Court for the County of Albany, by plaintiff Ying Y. Lai, to foreclose her mortgage interest in and to 1885 Central Avenue; and

WHEREAS, on or about June 7, 2005, the defendant United States of America filed a Notice of Removal of the above-entitled action in the Office of the Clerk of the United States District Court for the Northern District of New York; and

WHEREAS, on or about July 8, 2005, the defendant United States of America served upon Plaintiff's counsel an Answer to Foreclosure Complaint, alleging, among other things, as and for a Affirmative Defense, that the Plaintiff's foreclosure action was barred pursuant to 21 U.S.C. §853(k)(2); and

WHEREAS, on or about October 19, 2005, a Stipulation and Order to Stay Foreclosure Proceedings and for the Interlocutory Sale of Real Property was entered in the within action, pursuant to which this action was stayed for a period of ninety (90) days, during which time 1885 Central Avenue was to be listed for sale with a licensed real estate broker and sold at fair market value subject to the terms and conditions listed therein; and

WHEREAS, upon consent of the parties, the within action has been stayed for consecutive ninety (90) day periods up through and including January 31, 2008 with periodic status reports having been filed with the Court; and

WHEREAS, to date, 1885 Central Avenue has not been listed for sale by a licensed real estate broker or sold in accordance with the October 19, 2005 Stipulation and Order; and

WHEREAS, the parties hereby agree to lift the stay of Plaintiffs' foreclosure proceedings in order for the Plaintiff to pursue foreclosure of its mortgage.

NOW, THEREFORE, it is hereby stipulated and agreed by and between the undersigned as follows:

1. The Defendant United States of America shall, contemporaneously with the entry of this Stipulation and Order, release its Lis Pendens on 1885 Central Avenue only.

2. The Defendant United States of America hereby consents to the withdrawal of its Answer to Foreclosure Complaint filed in this action, together with the Affirmative Defenses raised

therein, and waives service of papers in this action except for the Judgment of Foreclosure and Sale, Notice of Sale, Referee's Report of Sale, Notice of Surplus Money Proceedings and any Notice of Discontinuance.

3. The Defendant United States of America and Plaintiff Ying Y. Lai hereby further consent to a termination of the stay of foreclosure proceedings in this action and consent to the Plaintiff's seeking a Judgment of Foreclosure and Sale and otherwise exercising its rights and remedies under the mortgage being foreclosed herein.

SIGNATURES

Dated: ~~January~~ February 25, 2008

NOLAN & HELLER, LLP
Attorneys for Plaintiff Ying Y. Lai

By: [signature]
Marco B. Koshykar, Esq.
39 North Pearl Street, 3rd Floor
Albany, New York 12207
(518) 449-3300

~~January~~ February 25, 2008

UNITED STATES OF AMERICA
Glenn T. Suddaby
United States Attorney
Northern District of New York

By: [signature]
Thomas A. Capezza
Assistant United States Attorney

AND, in accordance with the above Stipulation, it is hereby

ORDERED, that the Answer to Foreclosure Complaint filed by the defendant United States of America and the Affirmative Defenses raised therein are, and the same hereby be, withdrawn; and it is further

ORDERED, that the stay of foreclosure proceedings with respect to the subject property 1885 Central Avenue, Albany, New York is hereby terminated and that Plaintiff may continue pursuing its rights and remedies under the mortgage being foreclosed herein.

Hon. Randolph F. Treece,
United States Magistrate Judge

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